IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO.4046 OF 2004

IN

CRIMINAL APPEAL NO. 1118 OF 2004

Santosh Chandeo Jadhav .. Applicant

versus

State of Maharashtra .. Respondent

...

Mr.V.V. Purwant for the applicant.

Mr.D.P. Adsule, APP for the State.

CORAM : V.M. KANADE, J

DATED : 22nd December 2004.

P.C:-

1. Heard the learned counsel appearing on behalf of the applicant and the learned APP appearing on behalf of the State.

2. The applicant is convicted by the trial Court for an offence punishable u/s.395, r/w sec.398 of the

IPC and sentenced to suffer RI for seven years. The applicant is in jail since 17th October 2002. The prosecution case is that the accused had committed dacoity on the Mahabaleshwar Tapole Road and they forcibly stopped the vehicle of the complainant by overtaking their car. The applicant alongwith others were travelling in a Tata Sumo. It is alleged that a chopped was used with which the left front side window glass of the car was smashed and the accused removed the valuables such as cash, mobile phone, CD player etc. From the evidence, it appears that there is some discrepancy regarding the recovery of chopper. Similarly, there is also a discrepancy in the statement of the panch witness and the Special Executive Magistrate which creates a doubt regarding the Identification Parade which was held. Further, no Test Identification Parade was held in respect of the articles which were identified by the complainant. Under the circumstances, the applicant is entitled to be released on bail.

3. The applicant be released on bail in the sum of Rs.5,000/- with one or two sureties in the like amount. He shall report to Vashi Police station, New Bombay twice a month.

V.M. KANADE, J